

### **Remarks**

Applicant is grateful for the indication of allowability of the subject matter of claim 9. Claim 9 has been amended to put it in independent form and new claim 10, which corresponds to a connectionless network, has been added also in independent form. Accordingly, both claims 9 and 10 are now believed to be allowable.

In paragraph 2 of the latest Office Action, the Examiner objects to certain informalities. The applicant has amended those claims accordingly. However, the Examiner should note that it has not been possible to amend to "said customer" because each of those claims refers to a "plurality of customers". Nevertheless, applicant believes the correction should be acceptable to the Examiner.

Applicant is also grateful for the withdrawal of the previous action. However, applicant respectfully traverses the new rejection under 35 USC § 102(e) of the application as being anticipated by Shirai (US 5,912,877) for the following reasons:-

Firstly, regarding claim 1, its dependent claims and claim 8, applicant points out that Shirai is concerned with frame relay networks (see abstract, summary of the invention section, column 2, lines 32-48, and the description in general). Frame relay networks are connection-oriented networks as is clear from the description of Shirai which refers to DLCI (Data Link Connection Identifier) - see column 13, lines 31-38. The fact that frame relay is connection-oriented is also well-known to those skilled in the art and is evidenced by the print-out from the Internet "Linktionary" service downloaded from <http://www.linktionary.com/c/connections.html>. At the bottom of page 2 of 3 of this prior art, it is stated that "a WAN service that uses the connection-oriented model is frame relay". Accordingly, applicants submit that the invention as presently claimed is novel over Shirai since it is limited to connectionless networks. The limitation of the claims of the present invention to connectionless networks has been discussed in full in the previous response.

However, applicant notes that the Examiner may not have attributed patentable weight to the claim preambles. Accordingly, and for the avoidance of doubt, applicant has amended claim 1 to recite the step of “monitoring said connectionless network ...” and has amended claim 8 to recite the feature of “means for monitoring said connectionless network ...”. There can be no doubt now that the claims are limited to connectionless networks.

Congestion in connection-oriented networks is more easily detected than in connectionless networks by virtue of the very existence of connections. In connectionless networks, congestion is less predictable and dynamic re-routing of traffic as suggested in Shirai would not work in the context of connectionless networks such as IP networks. The Examiner will note that the present invention does not necessarily respond dynamically or “on the fly” in response to detecting congestion as Shirai does. Rather, the present invention involves monitoring the connectionless network to determine an actual or expected congestion point, and maintaining an express route for diverting certain data traffic.

In respect of claims 1, 7 and 8, the Examiner also argues that the features of identifying, at one or both end elements, data packets originating from the user and destined for the customer or data packet originating from the customer and destined for the user, and diverting the package along the express route is to be found in Shirai at lines 36-53 of column 14 and lines 25-31 of column 15. Applicant believes that the Examiner may be referring to column 13, lines 31-37 rather than column 14, lines 36-53.

In response, applicant has added new claims 11 and 12 which recite that “said data packets are identified in dependence on both their source and destination addresses”. Basis for this can be found, for instance, in Fig 3 and in the description in general. The Examiner will see from the two passages cited that Shirai merely discloses re-routing based on destination address, i.e. in the passages cited by the

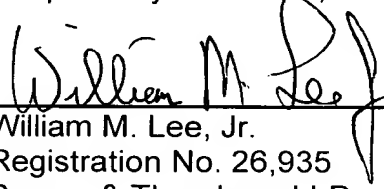
Examiner the "node numbers of the receiving node" and the "destination address". There is no disclosure whatsoever of re-routing based on source address. Accordingly, it is believed that new claims 11 and 12 are novel at least for this reason.

Similarly, regarding claim 6, the Examiner argues that the limitation "wherein the diverting step comprises filtering data packets within the other end element such that data packets having a source address corresponding to the user are diverted along the route" is anticipated by lines 16-24 of column 20. However, applicant again submits that Shirai merely discloses re-routing according to destination address - i.e. in the passage cited by the Examiner the "remote node number information". The same comments apply equally to claim 7.

Accordingly, applicant firmly believes that the invention as presently claimed is patentably distinct from the prior art cited by the Examiner and requests favorable reconsideration.

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Respectfully submitted,

  
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